

SERVED: November 30, 2007

NTSB Order No. EA-5343

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)  
on the 30<sup>th</sup> day of November, 2007

_____	)	
ROBERT A. STURGELL,	)	
Acting Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-18104
v.	)	
	)	
JOHN ROGER SHEPHERD,	)	
	)	
Respondent.	)	
_____	)	

**ORDER DISMISSING APPEAL**

The Administrator has moved to dismiss the appeal that respondent has filed in this proceeding, because respondent did not perfect his appeal by filing a timely appeal brief, as Section 821.57(b) of the Board's Rules of Practice requires (49 C.F.R. Part 821).<sup>1</sup> The Administrator's motion, to which respondent filed no responsive pleading, is granted.

The record establishes that respondent filed a timely notice of appeal from the law judge's October 30, 2007 oral initial

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<sup>1</sup> Section 821.57(b) provides, in part, as follows:

§ 821.57(b) *Briefs and oral argument.*

Each appeal in proceedings governed by this subpart must be perfected, within 5 days after the date on which the notice of appeal was filed, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal.

decision.<sup>2</sup> Respondent, however, did not file an appeal brief by November 6, 2007, which was the deadline established by the application of § 821.57(b). An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief. See §§ 821.57(b) and 821.48(a). We note that, as of the service date of this order, we have not received an appeal brief from respondent.

Without good cause to excuse a failure to file a timely appeal brief, or a request to file one out of time before it is due, a party's appeal will be dismissed. Administrator v. Hooper, 6 NTSB 559 (1988).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted; and
2. Respondent's appeal is dismissed.

Gary L. Halbert  
General Counsel

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<sup>2</sup> The law judge affirmed an order of the Administrator revoking on an emergency basis respondent's private pilot certificate and second-class medical certificate for violations of sections 61.15(e), 61.15(d), and 67.403(c)(1) of the Federal Aviation Regulations.